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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: ISPH-0537

Inventors: Dean et al.

Serial No.: 09/800,629

Filing Date: March 7, 2001

Examiner: Gibbs, Terra

Group Art Unit: 1635

Title: Antisense Modulation of Interleukin-5
Signal Transduction**Certificate of Facsimile Transmission**

I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on
the date shown below.

On February 21, 2003

Jare Massey Licata Registration No. 32,257

Assistant Commissioner for Patents
Washington, DC 20231**RESPONSE TO RESTRICTION REQUIREMENT**

This is a reply to the Restriction Requirement mailed January
22, 2003 setting a one month period for response. Please enter the
following remarks into the record.

REMARKS

Claims 1, 2, 4-23, 28-54 and 67-72 are pending in this
application. No new matter has been added by this paper.

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Reconsideration is respectfully requested in view of the following remarks.

The sequences of claims 1, 4, 5, 6, 13 and 40 of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 and 37 C.F.R. §1.141 by the Examiner in this case. The Examiner has required Applicants to elect one sequence for examination. Claims 1, 4, 5, 6, 13 and 40 specifically claim antisense targeting SEQ ID Nos: 1, 78, 52, 53, 62, 132, 133, 176, 162, 166, 167, 169, 170, 171, 172 and 209 which are targeted to IL-5 and IL-5 receptor α . The Examiner has further restricted the claims to one gene.

The Examiner suggests that the antisense sequences claimed each target and modulate expression of different genes and thus the instant antisense sequences are considered to be unrelated, since each antisense sequence claimed is structurally and functionally independent and distinct. The Examiner further suggests that the sequences are distinct as each SEQ ID NO. is a unique nucleotide sequence, and each sequence targets a different and specific region of IL-5 or IL-5 receptor α , and each antisense upon binding to IL-5 or IL-5 receptor α , functionally modulates (increases or decreases) the expression of the gene to a varying degree. Furthermore, the Examiner suggests that a search of more than one of the antisense

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sequences claimed presents an undue burden on the Patent and Trademark Office. The Examiner has required Applicants to elect one sequence from claims 1, 4, 5, 6, 13 and 40.

Applicants respectfully traverse this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

As acknowledged by the Examiner, all of the identified sequences share the ability to modulate Interleukin-5 signal transduction. Thus, Applicants respectfully disagree that the sequences set forth by the Examiner are distinct as being novel and unobvious over each other, as required by MPEP § 802.01. Accordingly, reconsideration and withdrawal of the single sequence election requirement of the sequences recited in claims 1, 4, 5, 6, 13 and 40 is respectfully requested.

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Further, any search identifying relevant prior art related to the modulation of Interleukin-5 signal transduction will also identify the relevant art to the Interleukin-5 receptor α . Thus, there is not any additional burden on the Patent Office, as a single search will uncover all of the relevant art to all of the sequences of the present invention as they relate to Interleukin-5 and the Interleukin-5 receptor α .

However, in an earnest effort to be completely responsive, Applicants hereby elect to SEQ ID NO: 78 targeted to IL-5, with traverse.

Respectfully submitted,

Jane Massey Licata

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Registration No. 32,257

Date: February 21, 2003

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MESSAGE: Attached is a Response to the Restriction Requirement mailed January 22, 2003.

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AMENDMENT TRANSMITTAL LETTER (Small Entity)

Applicant(s): Dean et al.

Docket No.

ISPII-0537

Serial No.

09/800,629

Filing Date

March 7, 2001

Examiner

Terra Gibbs

Group Art Unit

1635

Invention: ANTISENSE MODULATION OF INTERLEUKIN-5 SIGNAL TRANSDUCTION

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith is an amendment in the above-identified application.

☒ Small Entity status of this application has been established under 37 CFR 1.27 by a verified statement previously submitted.

☐ A verified statement to establish Small Entity status under 37 FR 1.27 is enclosed.

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA- CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	56	73	0 x	\$9.00	\$0.00
INDEP. CLAIMS	6	6	0 x	\$42.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

☒ No additional fee is required for amendment.

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☐ A check in the amount of _____ to cover the filing fee is enclosed.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1619
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☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 CFR 1.17.

Dated: February 21, 2003

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I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

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Serial No. 09/800,629	Filing Date March 7, 2001	Examiner Terra Gibbs	Group Art Unit 1635
Invention: ANTISENSE MODULATION OF INTERLEUKIN-5 SIGNAL TRANSDUCTION			
<p>I hereby certify that this <u>Response to Restriction Requirement</u> (Identify type of correspondence) is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 703-872-9306) on <u>February 21, 2003</u> (Date)</p> <p><u>Jane Massey Licata</u> (Typed or Printed Name of Person Signing Certificate)</p> <p><u>Jane Massey Licata</u> (Signature)</p> <p>Note: Each paper must have its own certificate of mailing.</p>			